

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES EARL WILSON,)
)
)
Plaintiff,)
)
)
vs.) **Case No. 4:05-CV-1242-MLM**
)
MICHAEL M. JOHNSTON, et al.,)
)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court upon the application of James Earl Wilson for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915 (a). Upon consideration of the financial information provided with the application, the Court finds that the applicant is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 (a).

28 U.S.C. § 1915 (e)

Pursuant to 28 U.S.C. § 1915 (e) (2) (B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief may be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *Jackson Sawmill Co. v. United States*, 580 F.2d 302, 306 (8th Cir. 1978).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 31-32 (1992); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds*, *Davis v. Scherer*, 468 U.S. 183 (1984).

The complaint

Plaintiff has filed this suit against Michael M. Johnston and Unknown Sorreillo, agents of the Federal Bureau of Investigation and the Central Intelligence Agency, respectively. The incoherent allegations of the complaint, even construed liberally, do not set forth any basis for relief against the named defendants.

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. 2] be **GRANTED**. *See* 28 U.S.C. § 1915 (a).

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint is legally frivolous or fails to state a claim upon which relief may be granted, or both. *See* 28 U.S.C. § 1915 (e) (2) (B).

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. 4] be **DENIED** as moot.

An appropriate order shall accompany this order and memorandum.

Dated this 2nd day of November, 2005.



Catherine D. Leng
UNITED STATES DISTRICT JUDGE